and *Small* v. *Smith*, *supra*. As casting some light upon the decisions of the Supreme Court of the United States on the point, and its construction of the Pennsylvania cases, which are concededly the cases which support the admissibility of this sort of testimony, see *Bust* v. *Bank*, 101 U. S. 93.

Action for Services—Incompetency as a Defense—Rebuttal Evidence.—State (Continental Match Co., prosecutor) v. *Smith*, 38 Atl. Rep. (N. J.) 969. Plaintiff, an artisan, brought a suit for breach of a contract of employment, the defense being incompetency, justifying his discharge. The lower court admitted evidence showing plaintiff's unsatisfactory work in another factory. To the claim that such admission was erroneous on the ground that the acts done in another place were *res inter alios actæ*, the court *held* such evidence to be admissible. See *Brierly* v. *Mills*, 128 Mass. 291.

Carriers—Injury to Passengers—Evidence—Statements of Plaintiff.—West Chicago St. Ry. Co. v. *Kennelly*, 48 N. E. (Ill.) 996. The testimony of a witness in an action for personal injury that the plaintiff "complained" of her injury the morning after the accident is not inadmissible as being a declaration in interest, but is admissible as a mere exclamation. But a statement by the same witness that plaintiff "complained of her side, and under the spine, in the back and this ankle," the morning after the accident, is not competent, because the statements of the plaintiff may have been made with a view to future litigation, and therefore declarations in interest. Statements of pain and suffering, past and present, are inadmissible in an action for personal injuries unless made to a physician or medical expert for the purpose of treatment or other legitimate purposes, or are made at the time of the injury so as to form part of the *res gestæ* (*Railroad Co.* v. *Sutton*, 42 Ill. 40; *Quaife* v. *Railway Co.*, 28 Wis. 524).

TAXATION.

City Lots—Assessments for Street Improvements—Election of Remedies.—City of Cincinnati v. *Emerson*, 48 N. E. Rep. (Ohio) 667. An owner of a city lot, who has two grounds for contesting the validity of an assessment imposed thereon for street improvements, one of which is common to him and the abutting owners of other lots, and the other pertains to his lot only, and who elects to bring an action enjoining the collection of the assessment in his and the abutting owners' behalf, is deemed to have waived the right to bring an action on the ground which pertained to his lot alone. A judgment rendered under the first action refusing the relief sought is a bar to the second action, even though the first action, if maintained, would have defeated the assessment altogether, while the second action, if successful, would have merely reduced the assessment against the one particular lot.

Privilege Tax—Exemption—Class and Special Legislation—Motion of Legislature.—Knoxville & O. R. Co. v. *Harris, Comptroller*, 43 S. W. Rep. (Tenn.) 115. A statute—Acts 1895 (Ex. Sess.), p. 592, c. 4, § 7—providing that specified corporations should pay specified taxes on specified privileges, and among them railroad companies, not paying an *ad valorem* tax to the State, discloses an obvious intention of the assembly to treat as a tax privilege the business of the railroad and not the abstract condition of "not paying an *ad valorem* tax to the State." Such a tax is not objectionable class legislation, in that there are only two such companies, because it applies equally to all corporations in a similar condition, and makes a natural and